

1886
KRISTO
BHABINAY
DOSSEE
v.
ASHUTOSH
BOSU
, MULICK.

to be divided into four parts, giving one of such parts to each of the three sons, and the fourth part to the two widows.

In that case, however, it does not appear that there was any contest or argument.

I think that I must follow Mr. Justice Phear's decision, and declare that the male defendant is entitled to a half share of the property.

As I understand it, the plaintiff does not dispute the right of her mother-in-law to a share on partition. The other half will therefore be divided between the plaintiff and the female defendant in equal shares.

Suit decreed.

Attorneys for plaintiff: Messrs. *Harris & Simmons.*

Attorney for second defendant: *Baboo Nobodeep Chunder Roy.*

T. A. P.

Before Mr. Justice Trevelyan.

1886
May 25.

BIPIN BEHARY DAW (PLAINTIFF) v. SREEDAM CHUNDER DEY
(DEFENDANT).*

Evidence Act (I of 1872), s. 32, cl. 5 and ill. (i.)—Hearsay Evidence—Pedigree—Proof of birth—Statement of deceased father.

In a suit on a promissory note, to which the only defence was minority, a statement made by the defendant's father, (who died before proceedings by way of suit had been contemplated) to a witness as to the age of his son, held to be inadmissible as evidence of the age of the defendant in support of his defence.

THIS was a suit brought on a promissory note. The only defence was that the defendant was a minor at the time the note was signed.

During the course of the defendant's case, one Motilal Day was called as a witness and deposed as follows: "I took Sreedam in 1876 to the Metropolitan Institute for the purpose of getting him admitted. . . . I did not know personally what Sreedam's age was when I took him to the Institute; whilst there his age was mentioned. At the time of his admission a statement of his age was given to me by his father."

Sreedam's father admittedly died after this event and before legal proceedings had been contemplated.

* Suit No. 331 of 1885.

Q by Mr. *Mittra* (defendant's Counsel).—What did his father say?

Mr. *M. P. Gasper* objected.

Mr. *Mittra* contended that the question was admissible under s. 32, cl 5 and illustration (l.) of the Evidence Act.

TREVELYAN, J.—I think the question is inadmissible. I do not think the statement of the father as to the date of the son's birth is evidence. Illustration (l) to s. 32 would be material in cases of pedigree; but the rule which admits hearsay evidence in pedigree cases is confined to the proof of the pedigree, and does not apply to proof of the facts which constitute a pedigree, such as birth, death and marriage when they have to be proved for other purposes. See *Haines v. Guthrie* (1).

This question does not come under para. 5 of s. 32 or any other paragraph of that section.

Attorney for plaintiff: Baboo *Bolye Chund Dutt*.

Attorneys for defendant: Messrs. *Bose & Bose*.

T. A. P.

1886

BIPIN
BEHARY
DAW
v.
SREEDAM
CHUNDER
DEY.

REFERENCE FROM THE BOARD OF REVENUE.

Before Sir *W. Comer Petheram*, Knight, Chief Justice, Mr. Justice *Pigot* and Mr. Justice *Trevelyan*.

In re THE KONDOLI TEA Co., LD.*

Stamp Act (I of 1879), Art. 21, Sch. I.—Conveyance by vendors under one denomination to the same persons purchasers under another denomination.

1886

April 3.

Eight persons, the owners of a tea estate, purported to convey their rights in the estate to a Company; the consideration expressed in the deed of conveyance being £43,320, payable in shares and debentures of the Company taken at par.

The only shareholders or debenture-holders of the Company were the eight persons who purported to sell the estate to the Company.

Held, that, although the conveying parties were the shareholders of the Company, there was just as much a sale and transfer of the property and a change of ownership as there would have been if the shareholders had been different persons; and that the proper duty payable on the conveyance was therefore that mentioned in Art. 21, Sch. I of the Stamp Act.

* Reference No. 1 of 1886 under s. 46 of the Stamp Act, made by C. A. Samuells, Esq., Offg. Secretary to the Board of Revenue, dated the 18th of February 1816.

(1) L. R., 13 Q. B. D., 818.